



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL MEMORANDUM

SUBJECT: Issuance of Revised ACL Table

TO: Solid Waste Landfill Owners/Operators

FROM: Debra Miller *DM*
Office of Solid Waste Director

CC: Draper Aden Associates
Golder Associates
Joyce Engineering, Inc.
SCS Engineers
Environmental Standards, Inc.
HDR Engineering, Inc.
Olver, Inc.
Dewberry & Davis
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REIC
Regional Waste Program Managers

DATE: January 23, 2009

The Department is preparing to issue the first revision to the health-risk based Alternate Concentration Level (ACL) table since October 2007. The updated table will be published on the web on the Department's Solid Waste Webpage (<http://www.deq.state.va.us/waste/solid.html>) before 1/30/09 and become effective on the date posted. These revised ACLs are based upon the "*Guidance to Calculate Health-Based Alternate Concentration Limits Using REAMS for a Solid Waste Facility*" as updated. The ACLs have been calculated using data provided by the Oak Ridge National Lab which has taken over the update and maintenance of the RSL (previously known as EPA Region RBC) table.

Upon review of the updated table, you will note a significant number of changes in existing concentration levels when compared to the October 2007 table. The changes reflect modifications to: toxicity values (affects 33 chemicals); addition or removal of toxicity values (affects 9 chemicals); and increase in significant digits (affects 17 chemicals).

Constituents whose changes will likely affect many landfills across the Commonwealth include: chloroethane (ACLs raised significantly), and cobalt and naphthalene (ACLs lowered significantly).

Facilities which participated in the 2007 "state-wide" ACL Variance, or which had ACL Variances approved post May 2007, may begin using the new concentration levels as soon as the revised table is posted. All sampling events which take place after the date on which the revised table is posted shall be compared to the concentrations included on the new table.

Facilities which did not participate in the 2007 “state-wide” ACL Variance must file a Variance petition meeting the requirements of 9 VAC 20-80-790.A and submit the associated \$390 fee before they can utilize the new ACLs. Because many of the concentration levels have increased, the Department recommends you submit your Variance as soon as possible so that the revised concentrations may be applied to your first 2009 sampling event. Additionally, in the case of changes in ACL for metals, a facility always has the option of proposing a site specific background value in lieu of using the ACL as GPS.

In either case above, once approved, revised ACLs should be incorporated into the facility’s existing table of groundwater protection standards (GPS) and the new list should be placed into the operating record. Please note, the Department is no longer placing GPS tables within a facility’s permit, as each time a GPS may change, the need for a permit amendment might be triggered to update the Permit. Additionally, from the point of compliance with the current VSWMR, the existence of an old GPS table in a facility Permit does not shield (see 9 VAC 20-80-550.E) a Permittee from having to use the revised ACL numbers during groundwater sampling activities as per regulation, all ACL’s utilized as GPS must meet the requirements of 9 VAC 20-80-760.B (ACLs based on out-dated EPA risk data would fail to meet these criteria).

Lastly, the issuance of revised ACLs may have an impact on facilities within the groundwater corrective action process defined under 9 VAC 20-80-300.B.3.g; C.4.e.(3) and/or 310. Upon issuance of the revised ACLs, and completion of a sampling event under which the groundwater data is compared to the new ACLs, if the facility finds that any of the formerly identified groundwater constituents that were above GPS per 9 VAC 20-80-300.B.3.g; C.4.e.(3) and are now found to be below the revised ACL concentrations, the Department shall be notified of this fact and those constituents may be approved for removal from further evaluation under 9 VAC 20-80-310 . If, during this process, no constituents remain on the monitoring list, the facility may be able to terminate any further plume delineation, assessment of corrective measures, or remedy implementation if it can demonstrate that it has previously completed actions required under the VSWMR within the allowed timeframes. There may also be cases where a reduction in an ACL causes new constituents to exceed their GPS. A facility may need to amend its existing Nature and Extent Study to delineate the new release or submit an Alternate Source Demonstration identifying a source other than the landfill for the release. Facilities may need to amend their chosen site remedy if the new constituent(s) of concern are not amendable to the remedy already described in their Permit. In either case noted above, it is important to recognize that the revised ACLs can not be back-applied to groundwater samples obtained in 2008 prior to their issuance. All regulatory decisions will be made based on sampling results compared to the most recently issued ACL (GPS) list.

For additional information on ACLs, please refer to the ACL Frequently Asked Questions document available on the Department’s website, or contact Ms. Sonal Iyer at (804) 698-4259; Mr. Geoff Christe at (804) 698-4283; or Mr. Sanjay Thirunagari at (804) 698-4193. This memorandum is provided as informational only, and should not be considered a legal opinion or case decision as defined by the Administrative Process Act, Code of Virginia, Section 2.2-4000 et. seq. This memorandum does not make or imply a facility-specific final determination of compliance with the VSWMR, nor does it constitute a final case decision regarding any of the groundwater actions undertaken at any specific solid waste facility.